A.F.R.

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(26)

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. 608 of 2005

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellant Non-applicant No.3	:	National Insurance Company Limited, Through : Branch Manager, Taha Complex, Vyapar Vihar Road, Bilaspur (C.G.) Tehsil & Dist : Bilaspur.
	:	Versus
Respondent Applicant	: 1.	Ramkumar Sahu, age 35 years, S/o Nanva Sahu, Resident of village Bhatgaon, Post Bhatgaon, Tahsil Mungeli, Dist : Bilaspur (C.G.) Present Address: Kududand, Bilaspur (C.G.)
Respondents Non-applicants No.1 & 2.	: 2.	Shailesh Pandey, age 32 years, S/o Budhnath Pandey, Resident of Sector-11, Road No.5, Zone No.1, Kursipar, Police Station-Chhaoni, Dist. Durg.
	: 3.	Gulab Chandra, age 28 years, S/o late Chhedilal Vaishya, Resident of B-7, Vijay Complex Camp, Bhilai Power House, Police Station Chhaoni, Dist. Durg.

Shri Srikumar Agrawal, Sr. Advocate with Shri Anand Gupta, Counsel for the appellant.

ORAL ORDER

(Passed on 24th January, 2006)

The following oral order of the Court was passed by S. R. NAYAK, C.J.

1. In this appeal preferred by the Insurance Company, the only ground urged by the learned counsel for the Insurance Compnay was that in assessing future loss of income, the Motor Accidents Claims Tribunal (M.A.C.T.) has taken the degree of permanent disability at 50%, though as per medical evidence, the permanent disability is only

25%. That was the only ground urged before us. It needs to be noticed that though according to the medical evidence, permanent disability is at a lower degree, the Tribunal, in the facts and circumstances of the case and having regard to the impact of the injuries on avocation of the injured, may take the functional disability at a degree which is more than what is recorded in disability certificate or doctor's evidence. For example, in an accident if a manual worker loses a limb, it may not be a case of cent percent disability in terms of disability certificate or in terms of technical view of the matter, but, the Tribunal may regard it cent percent functional disability. The M.A.C.T. having regard to the nature and gravity of the injuries sustained by the injured and their impact on the earning capacity of the injured, has taken the disability at 50% and in doing so, we think, it has not committed any illegality. There is no merit in the appeal and it is accordingly dismissed. No costs.

Sd/-
Chief Justice
Judge

Sd/-
Dilip Raosaheb Deshmukh
Judge